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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,689	05/08/2001	Steven Soloff	PD-201017A	3251

			EXAMINER
20991	7590	02/23/2006	BELIVEAU, SCOTT E

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/851,689	SOLOFF, STEVEN
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 January 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-35</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Priority

1.   Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or

under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one

or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e)

as follows:

The later-filed application must be an application for a patent for an invention which is

also disclosed in the prior application (the parent or original nonprovisional application or

provisional application). The disclosure of the invention in the parent application and in the

later-filed application must be sufficient to comply with the requirements of the first

paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*,

38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/268,481, fails to provide

adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C.

112 for one or more claims of this application. With respect to claims 1, 12, 23, and 25, the

earlier filled application is silent with respect to tracking the particular duration or amount of

time an individual watches a particular event. Applicant's argue that the particular reference

to DirectTV and a DirectTV NavLog Library, infer that the particular invention is used

within a satellite broadcast system and that a prototype command GLA_NavLog_LogPage

hit further infers that the duration of a page hit may be recorded. With respect to the

particular disclosure relating to the GLA_NavLog_LogPage, the disclosure merely sets forth

that a new hit for a page has occurred. The claims require for recording the identify of each

scene being viewed by the user and the time of day and <u>duration of said viewing at the time</u> <u>of said user transition.</u> The disclosed indication that a new hit has occurred by a function is not construed as providing adequate support for the claimed limitation as it is unclear as to how the particular duration of viewing at the time of the transition is also being recorded.

With respect to claims 2, 13, and 26, the earlier application is silent with respect to the particular further determining/identifying the geographical location of the user viewing a scene.

With respect to claims 3, 14, and 27, the earlier application is silent with respect to the particular further usage of both temporary and permanent memory storage and the particular transmission between both types of storage.

With respect to claims 4, 15, and 28, the earlier application is silent with respect to the particular further usage of FLASH memory as claimed.

In consideration of claims 7, 18, and 31, the earlier application is silent with respect to the particular further usage of wireless data transfer means in association with the upstream communication of recorded information.

With respect to claims 8, 19, and 32, the earlier filling is silent with respect to further determining if a scene's navigational log record has already been recorded, determining if the capacity of said permanent memory device has been reached, and reallocating, if necessary, an array of stored scene information to create space for an additional navigational log.

With respect to claims 9, 20, and 33, as aforementioned, the earlier filling is further silent with respect to the particular usage of temporary memory storage and is further silent with

respect to the transmitting the contents of said temporary memory storage device occurs at a predetermined time.

With respect to claims 10, 21, and 34, the earlier filling is silent with respect to further opening an index and database file in a permanent memory storage device, determining a next available write location in said database file, and writing each entry in said navigational log record into said database file. Accordingly, claims 1-35 are being examined based upon the filling date of the application or 08 May 2001.

Specification

2.   The abstract of the disclosure is objected to because of its length. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. Correction is required. See MPEP § 608.01(b).

Response to Arguments

3.   Applicant's arguments with respect to claims 1, 12, 23, and 25 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the rejection under 35 U.S.C. 102 over Aras et al., applicants argue that the reference fails to particularly teach an equivalent "means for determining when a user transitions from a first informative scene to a subsequent informative scene" in so far as the scenes relate to advertising that the user may or may not review and may further include

news reports and/or general advertisements. Turning to the instant application, the "means

for determining" is construed as a computer program comprising series of instructions which

recognizes when a scene transition has occurred (IA: Page 8, Lines 16-23 and Page 10, Lines

4-8). A scene transition is associated with a user channel change (IA: Page 9, Lines 11-19).

Aras et al. discloses the particular usage of a computer program [1555] in a satellite receiver

that is operable to determine when a user transitions between informative scenes in

association with a channel change operation as illustrated in Figures 6C and 6D. These

"scenes" may be considered "informative" by virtue of being assoicated with advertising or

news (ex. CNN) (Col 6, Lines 45-53). Accordingly, the an equivalent "means for

determining" is considered taught by Aras et al.

With respect to applicant's arguments regarding the rejection of claims 7, 11, 18, and 31,

applicant's arguments appear limited to the claims being allowable based upon their

respective independent claims and the previous indication of claim 11 being further rejected

in the heading under the combination of Aras et al. and Laubach et al. As set forth in the

preceding rejection, the independent claims are not considered allowable for the reasoning

set forth. Claim 11 appears to have been mistakenly additionally included in the heading of

the Non-Final rejection under 35 U.S.C. 103 and was (see Non-Final Rejection – Page 7) and

continues to be rejected under 35 U.S.C. 102 under Aras et al.

Claim Objections

4.   Claim 27 is objected to because the phrase "FLASHLOG" appears to be referring to the

subroutine "FLUSHLOG". Appropriate correction is required.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 1-6, 8-17, 19-30, and 32-35 are rejected under 35 U.S.C. 102(b) as being

anticipated by Aras et al. (US Pat No. 5,872,558).

Claim 1 is rejected wherein Figure 1B of Aras et al. illustrates a "system for identifying

and processing satellite based television usage and navigational data". In particular the

system comprises "means for generating informative scenes . . . transmitted in satellite

broadcasts" [101] such as those associated with television commercials or other traditional

television programming including news (Col 6, Lines 45-54). These "informative scenes"

are subsequently received by a home station [111]. The home station comprises a "means for

displaying said scenes on a viewing device located at a user location" [1563] (Col 24, Lines

29-43) and a subscriber monitoring program [1555] comprising a "means for identifying each

discrete scene, means for determining when a user transitions from a first informative scene

to a subsequent informative scene" (Figures 6C and 6D), a "means for recording the identify

of each scene being viewed by the user and the time of day and duration of said viewing at

the time of said user transition, thereby creating a navigational log record" (Figures 10-13;

Col 7, Lines 59-67; Col 15, Line 1 – Col 16, Line 33; Col 20, Lines 15-40), and a "means for

storing said navigation log record in a memory storage device" [1706] (Col 16, Lines 34-51;

Col 16, Line 60 – Col 17, Line 22).

Claim 2 is rejected wherein the system further comprises "means for determining the

geographical location of the user viewing said scene" (Col 12, Line 55 – Col 13, Line 23; Col

17, Lines 30-38).

Claim 3 is rejected wherein the "means for storing said navigational log record includes

means for temporarily storing said log record in a temporary memory storage device" [1719]

and "means for transmitting the contents of said temporary memory storage device to a

permanent memory storage device" [1711] (Figure 17; Col 16, Lines 46-51; Col 26, Lines 1-

20).

Claim 4 is rejected wherein "said permanent memory storage device is comprised of

FLASH memory" (Col 26, Lines 16-20).

Claim 5 is rejected wherein the system further comprises "means for periodically

transmitting said navigational log record stored in said permanent memory storage device to

a remote processing location" (Col 17, Lines 57-62; Col 26, Line 44 – Col 27, Line 8).

Claim 6 is rejected wherein "said transmitting means is a modem" (Col 17, Lines 42-43).

Claim 8 is rejected wherein the "means for temporarily storing said navigational log

record includes means for determining if a scene's navigational log record has already been

recorded" (Col 16, Lines 17-21), "means for determining if the capacity of said permanent

memory device has been reached, and means for reallocating, if necessary, an array of stored

informative scene identities to create space for an additional navigational log" (Col 14, Lines

25-53; Col 17, Lines 43-56).

Claim 9 is rejected wherein "said means for transmitting the contents of said temporary memory storage device occurs at a predetermined time" (Col 16, Lines 46-51).

Claim 10 is rejected wherein the "means for transmitting the contents of said temporary memory storage device includes means for opening an index and database file in said permanent memory storage device, means for determining a next available write location in said database file, and means for writing each entry in said navigational log record into said database file" in accordance with the buffering, processing, and storage of database records in the structured data array associated with non-volatile storage (Col 14, Lines 38-43).

Claim 11 is rejected wherein the system further comprises "means for recording the latest recorded navigational log record into a database file even when the storage capacity of said permanent memory storage device has been attained". In particular, the reference teaches that once the permanent memory storage device [1711] becomes full, it transmits its contents upstream and deletes the remaining records. Subsequently, the system continues processing/storing navigation records and is capable of "recording the latest recorded navigational log record" into the newly emptied/created database subsequent to the storage capacity of the permanent storage having been attained.

Claim 12 is rejected wherein Figure 1B of Aras et al. illustrates a system which implements a "method for identifying and processing satellite based television usage and navigational data". In particular the system comprises "means for generating informative scenes . . . transmitted in satellite broadcasts" [101] such as those associated with television commercials or other traditional television programming including news (Col 6, Lines 45-54). These "informative scenes" are subsequently received by a home station [111] and

"displayed . . . on a viewing device located at a user location" [1563] (Col 24, Lines 29-43).

A subscriber monitoring program [1555] subsequently "determines when a user transitions

from a first informative scene to a subsequent informative scene" (Figures 6C and 6D),

"identifies each discrete scene being viewed by the user and the time of day and duration of

said viewing at the time of said user transition, thereby creating a navigational log record"

(Figures 10-13; Col 15, Line 1 – Col 16, Line 33; Col 20, Lines 15-40), and "stores said

navigation log record in a memory storage device" [1706] (Col 16, Lines 34-51; Col 16,

Line 60 – Col 17, Line 22).

Claim 13 is rejected wherein the system further "determines the geographical location of

the user viewing said scene" (Col 12, Line 55 – Col 13, Line 23; Col 17, Lines 30-38).

Claim 14 is rejected wherein the "step of storing said navigational log record includes

temporarily storing said log record in a temporary memory storage device" [1719] and

"transmitting the contents of said temporary memory storage device to a permanent memory

storage device" [1711] (Figure 17; Col 16, Lines 46-51; Col 26, Lines 1-20).

Claim 15 is rejected wherein "said permanent memory storage device is comprised of

FLASH memory" (Col 26, Lines 16-20).

Claim 16 is rejected wherein the system further comprise the "step of periodically

transmitting said navigational log record stored in said permanent memory storage device to

a remote processing location" (Col 17, Lines 57-62; Col 26, Line 44 – Col 27, Line 8).

Claim 17 is rejected wherein "said step of transmitting . . . is via a modem" (Col 17,

Lines 42-43).

Claim 19 is rejected wherein the "step of temporarily storing said navigational log record includes determining if a scene's navigational log record has already been recorded" (Col 16, Lines 17-21), "determining if the capacity of said permanent memory device has been reached, and reallocating, if necessary, an array of stored informative scene identities to create space for an additional navigational log" (Col 14, Lines 25-53; Col 17, Lines 43-56).

Claim 20 is rejected wherein the "step for transmitting the contents of said temporary memory storage device occurs at a predetermined time" (Col 16, Lines 46-51).

Claim 21 is rejected wherein the "step of transmitting the contents of said temporary memory storage device includes opening an index and database file in said permanent memory storage device, determining a next available write location in said database file, and writing each entry in said navigational log record into said database file" in accordance with the buffering, processing, and storage of database records in the structured data array associated with non-volatile storage (Col 14, Lines 38-43).

Claim 22 is rejected wherein the system further comprises the "step of recording the latest recorded navigational log record into said database file even when the storage capacity of said permanent memory storage device has been attained". In particular, the reference teaches that once the permanent memory storage device [1711] becomes full, it transmits its contents upstream and deletes the remaining records. Subsequently, the system continues processing/storing navigation records and is capable of "recording the latest recorded navigational log record" into the newly emptied/created database subsequent to the storage capacity of the permanent storage having been attained.

Claim 23 is rejected in light of the rejection of claim 1 wherein Figure 1B of Aras et al.

illustrates a "satellite-based communications network for identifying and processing satellite

based television usage and navigational data". Turning to Figure 1B, the system comprises a

"broadcast center for broadcasting information" [123], "one or more communication

satellites for receiving said broadcasting information" [115], "user receiving means situated

within said satellite's coverage area to receive said broadcast information" [111] and a

"viewing device connected to said user receiving means" [1563]. The home station [111]

comprises "video image selection means for providing a user with a means of transitioning

from one informative scene to a subsequent informative scene, wherein said video image

comprises said broadcast information" [1551] and "means for compiling user navigational

data" [1555] (Col 6, Lines 45-54; Col 24, Line 29 – Col 26, Line 32) wherein "said

navigational data includes the identification of the scene being viewed, the time the user is

viewing said scene, the length of time of said viewing, and the location of the user viewing

said scene" (Figures 10-14; Col 17, Line 57 – Col 18, Line 9; Col 20, Lines 15-40).

Claim 24 is rejected wherein the system further comprises "means for periodically

transmitting said navigational log record stored in said permanent memory storage device to

a remote processing location" (Col 17, Lines 57-62; Col 26, Line 44 – Col 27, Line 8).

Claim 25 is rejected wherein Aras et al. discloses a "computer program stored in a

computer readable medium embodying instructions to perform a method of tracking satellite-

based television usage characteristics" (Col 26, Line 33-41). In particular, the method

comprises "determining when a user transitions from a first informative scene being

displayed on a user's viewing device to a subsequent informative scene displayed upon said

viewing device, wherein said scenes comprise information transmitted in satellite television broadcasts" (Col 6, Lines 45-54; Col 24, Lines 29-43; Figures 6C and 6D), "identifying said scene being viewed by the user and the time of day and duration of said viewing at the time of said user transition, thereby creating a navigational log record" (Figures 10-13; Col 15, Line 1 – Col 16, Line 33; Col 20, Lines 15-40), and "storing said navigation log record, where said computer program labels the log record as a PAGEHIT, in a memory storage device" [1706] indicative of the user having viewed/watched a particular scene (Col 16, Lines 34-51; Col 16, Line 60 – Col 17, Line 22).

Claim 26 is rejected wherein the system further comprises the "step of determining the geographical location of the user viewing said scene" (Col 12, Line 55 – Col 13, Line 23; Col 17, Lines 30-38).

Claim 27 is rejected wherein the "step of storing said navigational log record includes temporarily storing said log record in a temporary memory storage device" [1719] and "utilizing a subroutine, FLUSHLOG, to transmit the contents of said temporary memory storage device to a permanent memory storage device" [1711] (Figure 17; Col 16, Lines 46-51; Col 26, Lines 1-20).

Claim 28 is rejected wherein "said permanent memory storage device is comprised of FLASH memory" (Col 26, Lines 16-20).

Claim 29 is rejected wherein the system further comprises the "step of periodically transmitting said navigational log record stored in said permanent memory storage device to a remote processing location" (Col 17, Lines 57-62; Col 26, Line 44 – Col 27, Line 8).

Claim 30 is rejected wherein the "step of transmitting . . . is via a modem" (Col 17, Lines 42-43).

Claim 32 is rejected wherein the "step of temporarily storing said navigational log record includes determining if a scene's navigational log record has already been recorded" (Col 16, Lines 17-21), "determining if the capacity of said permanent memory device has been reached, and reallocating, if necessary, an array of stored informative scene identities to create space for an additional navigational log" (Col 14, Lines 25-53; Col 17, Lines 43-56).

Claim 33 is rejected wherein the "step of transmitting the contents of said temporary memory storage device occurs at a predetermined time" (Col 16, Lines 46-51).

Claim 34 is rejected wherein the "step of transmitting the contents of said temporary memory storage device includes opening an index and database file in said permanent memory storage device, determining a next available write location in said database file, and means for writing each entry in said navigational log record into said database file" in accordance with the buffering, processing, and storage of database records in the structured data array associated with non-volatile storage (Col 14, Lines 38-43).

Claim 35 is rejected wherein the system further comprises the "step for recording the latest recorded navigational log record into said database file even when the storage capacity of said permanent memory storage device has been attained". In particular, the reference teaches that once the permanent memory storage device [1711] becomes full, it transmits its contents upstream and deletes the remaining records. Subsequently, the system continues processing/storing navigation records and is capable of "recording the latest recorded

navigational log record" into the newly emptied/created database subsequent to the storage

capacity of the permanent storage having been attained.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 7, 18, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aras

et al. (US Pat No. 5,872,558) in view of Laubach et al. (US Pat No. 5,870,134).

In consideration of claims 7, 18, and 31, as aforementioned, the Aras et al. reference

discloses the particular usage of communication controller [1557] described as a cable

modem or other device for communicating viewer behavior information upstream. The

reference, however, does not particularly disclose that the cable modem or other device for

upstream communication is necessarily a "wireless data transfer means". The Laubach et al.

reference provides evidence as to a "wireless data transfer means" or wireless cable modem

that is utilized to transfer data upstream wirelessly (Col 2, Line 44 – Col 3, Line 6; Col 7,

Lines 7-10). Accordingly, it would have been obvious to one having ordinary skill in the art

at the time the invention was made so as to employ "wireless data transfer means" as taught

by Laubach et al. with the Aras et al. distribution architecture for the purpose of providing an

efficient, transparent, and cost-effective approach for implementing two-way cable systems

(Laubach et al.: Col 2, Lines 29-41) that further advantageously supports the upstream

communication of monitoring information (Aras et al.: Col 2, Lines 52-56).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure as follows. Applicant is reminded that in amending in response to a rejection of

claims, the patentable novelty must be clearly shown in view of the state of the art disclosed

by the references cited and the objections made.

- The Grauch et al. (US Pub No. 2005/0235318 A1) reference discloses an interactive

    media delivery system which tracks user interactivity.

- The "New Georgia Encyclopedia" article provides evidence that CNN is a 24-hour

    news channel which provides informative scenes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened statutory

period will expire on the date the advisory action is mailed, and any extension fee pursuant to

37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Beliveau
Examiner
Art Unit 2614

SEB
February 20, 2006